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HOUSE BILL 2454

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State of Washington

64th Legislature

2016 Regular Session

By Representative MacEwen

Read first time 01/13/16. Referred to Committee on Local Government.

1 AN ACT Relating to authorizing cities and counties to facilitate  
2 the maintenance and repair of private roadways impacting the public  
3 interest; and adding a new chapter to Title 36 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Local jurisdiction" means any city, town, or county.

9 (2) "Private roadway" means every way or place in private  
10 ownership and used for travel of vehicles by the owner or those  
11 having express or implied permission from the owner, but not by other  
12 persons.

13 (3) "Public use" means the use of a private roadway by a  
14 governmental entity related to police or fire protection services or  
15 any other governmental service requiring the use of a private roadway  
16 as the vehicular roadway for ingress or egress by the governmental  
17 entity.

18 NEW SECTION. **Sec. 2.** (1) A local jurisdiction may not authorize  
19 the financing for the construction, reconstruction, or repair of a  
20 private roadway under this chapter unless the jurisdiction receives a

1 petition signed by the owners abutting the roadway, according to the  
2 records of the county within which the roadway is located,  
3 constituting an aggregate amount of the majority of the lineal  
4 frontage upon the contemplated roadway improvement.

5 (2) A petition submitted under this section must set forth the  
6 nature and territorial extent of the proposed roadway improvement,  
7 and the fact that the petition signers are the owners, according to  
8 the records of the county within which the roadway is located, of a  
9 majority of the lineal frontage upon the contemplated roadway  
10 improvement. The petition must also provide the financial  
11 contribution that will be provided by each of the property owners  
12 abutting the portion of the roadway improvement and a proposed  
13 timeline for completing the roadway improvement.

14 (3) Upon the filing of a petition under this section, the county  
15 must determine whether the petition is sufficient. If the county  
16 finds the petition to be sufficient, the county may adopt a  
17 resolution under section 4 of this act.

18 NEW SECTION. **Sec. 3.** A local jurisdiction is authorized to  
19 construct, reconstruct, and repair private roadways where the local  
20 jurisdiction receives a petition under section 2 of this act and  
21 adopts a resolution required under section 4 of this act. The local  
22 jurisdiction may pay the entire costs of the construction,  
23 reconstruction, or repair from any available funds or contribute a  
24 portion of the funds to pay the costs of the improvements.

25 NEW SECTION. **Sec. 4.** (1) A local jurisdiction may not undertake  
26 the construction, reconstruction, or repair of a private roadway  
27 under this chapter except pursuant to a resolution of the legislative  
28 body of the local jurisdiction. The resolution must state whether all  
29 or a specified portion of the cost of the improvements will be borne  
30 by the abutting property owners at their own cost and expense as  
31 provided in the petition under section 2 of this act. The amount of  
32 cost and expense borne by the abutting property owners, as provided  
33 in the resolution, may not exceed the amount specified in the  
34 petition under section 2 of this act. If the abutting owners are  
35 required to pay for all or a portion of the costs of the improvements  
36 and fail to pay for the costs, the local jurisdiction may perform and  
37 complete the improvements and assess the cost against the abutting  
38 owners for the portion of costs attributable to the property owners

1 in the manner provided in the petition, but adjusted for any  
2 modifications authorized under this subsection. The local  
3 jurisdiction may not increase the total amount of funds that will be  
4 contributed by the abutting property owners in excess of the amount  
5 specified in the petition submitted under section 2 of this act, but  
6 the resolution may modify the amount contributed by each property  
7 owner to reflect a more fair allocation among the property owners.

8 (2) The resolution must include a declaration of public use that  
9 specifically identifies the significant public uses necessitating the  
10 constructing, reconstructing, or repairing of a private roadway.

11 (3) If the abutting owners are required to pay for all or a  
12 portion of the costs of the improvements as provided under subsection  
13 (1) of this section, the cost assigned to each property owner must be  
14 consistent with the allocated contribution amounts specified on the  
15 petition, but adjusted for any modifications authorized under  
16 subsection (1) of this section.

17 (4) The legislative body of the local jurisdiction must provide a  
18 public hearing on the resolution prior to its adoption. Notice of the  
19 public hearing on the resolution must be published for two  
20 consecutive weeks before the time of hearing in the official  
21 newspaper or regularly published official publication of the city or  
22 town. The local jurisdiction must provide notice of the date of the  
23 hearing to each owner or reputed owner of the abutting property by  
24 mailing to the owner or reputed owner of the property as shown on the  
25 tax rolls of the county treasurer, at the address shown thereon a  
26 notice of the date of hearing, the mailing to be at least ten days  
27 before the date fixed for the hearing. If the publication and mailing  
28 is made as required in this section, proof thereof by affidavit must  
29 be filed with the local jurisdiction before the hearing. The hearing  
30 may be postponed from time to time to a definite date until the  
31 hearing is held. At the time of hearing, the legislative body of the  
32 local jurisdiction must hear persons who appear for or against the  
33 improvement, and determine whether it will or will not proceed with  
34 the improvement and whether it will make any changes in the original  
35 plan, and what the changes will be. This action may be taken by  
36 motion adopted in the usual manner.

37 NEW SECTION. **Sec. 5.** When all or any portion of the cost is to  
38 be assessed against abutting property owners, the local jurisdiction  
39 may create a "private roadway construction fund No. ...." to be

1 numbered differently for each improvement; and with warrants drawn on  
2 this fund the cost of the respective improvements may be paid. The  
3 local jurisdiction may advance as a loan to the private roadway  
4 construction fund from any available funds the amounts necessary to  
5 pay any costs of the improvement. When any assessments are made for  
6 the improvement, payments therefor must be paid into the particular  
7 private roadway improvement fund; and whenever any funds are  
8 available over the amounts necessary to pay outstanding warrants any  
9 advances or loans made to the fund must be repaid. Whenever warrants  
10 are drawn on any such fund which are not paid for want of sufficient  
11 funds, they must be so stamped and must bear interest until called  
12 and paid at a rate established by the local jurisdiction by  
13 resolution.

14 NEW SECTION. **Sec. 6.** Where all or any portion of the costs are  
15 to be assessed against the abutting property by the local  
16 jurisdiction, an assessment roll must be prepared by the proper  
17 official of the local jurisdiction and must conform with the  
18 allocation of costs specified in the petition under section 2 of this  
19 act, but adjusted for any modifications authorized under subsection  
20 (1) of this section. The assessment roll must describe the property  
21 assessed, the name of the owner, if known, otherwise stating that the  
22 owner is unknown and fixing the amount of the assessment. The  
23 assessment roll must be filed with the appropriate official of the  
24 local jurisdiction, and when so filed, the local jurisdiction by  
25 resolution must fix a date for hearing the proposed assessment roll  
26 and direct the clerk of the local jurisdiction to give notice of the  
27 hearing and the time and place thereof. The notice of hearing must be  
28 mailed to the person whose name appears on the county treasurer's tax  
29 roll as the owner or reputed owner of the property, at the address  
30 shown thereon, and must be published before the date fixed for the  
31 hearing for two consecutive weeks in the official newspaper or  
32 regular official publication of the city. The notice must be mailed  
33 and first publication made at least ten days before the hearing date.  
34 Proof of mailing and publication must be made by affidavit and must  
35 be filed with the appropriate official of the local jurisdiction  
36 before the date fixed for the hearing. Following the hearing the  
37 local jurisdiction must by resolution affirm, modify, or reject or  
38 order recasting of the assessment roll. An appeal may be taken to the  
39 superior court from the ordinance confirming the assessment roll in

1 the same manner as is provided for appeals from the assessment roll  
2 by chapters 35.43 through 35.54 RCW, inclusive, as now or hereafter  
3 amended.

4 NEW SECTION. **Sec. 7.** The local jurisdiction must by resolution  
5 provide whether the full amount of the assessment must be paid in one  
6 payment or whether it may be paid in installments and must prescribe  
7 the time and amount of such payments; and if more than one payment is  
8 provided for, the local jurisdiction may by resolution provide for  
9 interest on unpaid installments and fix the rate thereof.

10 NEW SECTION. **Sec. 8.** The assessment roll as affirmed or  
11 modified by the local jurisdiction must be filed with the treasurer  
12 of the local jurisdiction for collection, and the amount thereof  
13 including interest, if any, becomes a lien against the property  
14 described therein from the date of the filing. Whenever any payment  
15 on any assessment or installment is delinquent and unpaid for a  
16 period of thirty days or more the lien may be foreclosed in the same  
17 manner and with the same effect as is provided by chapters 35.43  
18 through 35.54 RCW, inclusive, as now or hereafter amended. Whenever  
19 the deed is issued after the sale therein provided, the regularity,  
20 validity, and correctness of the proceedings relating to such  
21 improvement and the assessment therefor is final and conclusive and  
22 no action may thereafter be brought by or in behalf of any person to  
23 set aside such deed.

24 NEW SECTION. **Sec. 9.** This chapter is supplemental and  
25 additional to any and all other laws relating to construction,  
26 reconstruction, and repair of private roadways in local  
27 jurisdictions.

28 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act  
29 constitute a new chapter in Title 36 RCW.

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